



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 8

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AUG 28 2001

OFFICE OF PETITIONS

BURNS DOANE SWECKER & MATHIS LLP
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of
Phillips & Wong
Application No. 09/679,398
Filed: October 3, 2000
Attorney Docket No. 032001-011
For: HIERARCHICAL STORAGE
ARCHITECTURE FOR RECONFIGURABLE
LOGIC CONFIGURATIONS

DECISION ACCORDING
STATUS UNDER
37 CFR 1.47(b)

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed August 22, 2001

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application. Specifically, the declaration of facts of Attorney Joseph P. O'Malley, an attorney representing the Rule 47(b) entity, Chameleon Systems, Inc. (Chameleon), establishes that the inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that they sign their copy of the declaration. In addition, petitioner has shown that Chameleon has a proprietary interest in the above-identified application with the copies of the assignment agreements showing that the inventors had an obligation to assign any patent rights to Chameleon. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Regarding finances, a review of Office financial records indicates that petitioner was charged large entity filing fees from the initial filing of the above-identified application. However, in the renewed petition, filed August 22, 2001, petitioner asserts that the filing fee was paid at the small entity level concurrent with the filing of the Response to Notice to File Missing Parts of Application. As of August 22, 2001, petitioner is considered small entity because Attorney O'Malley asserts small entity status. Any fees paid from that point on will be small entity fees.

Because the application file does not contain a written assertion of entitlement to small entity status prior to that point, petitioner was charged large entity fees.

As stated in 37 CFR 1.27(c)(3), the payment of the exact amount of the small entity basic filing fees will be treated as a written assertion of entitlement to small entity status. However, the payment of any small entity fee other than a filing fee will not be treated as a written assertion of entitlement. Petitioner must show that petitioner desired the Office to charge small entity fees when the authorization to charge the filing fees was submitted. A review of the application file shows that the transmittal sheet, filed on October 3, 2000, is missing. Petitioner is requested to submit a copy of the October 3, 2000 transmittal letter or whatever document establishes that petitioner intended the Office to charge small entity filing fees.

With the May 7, 2001 petition, petitioner submitted a check for \$630, although the amount of the check as stated in the petition was \$640.00. As finances stand now, petitioner deposit account has been charged \$10.00 to account for the \$10.00 discrepancy in the submitted check (which is applied towards a \$130.00 petition to Commissioner fee) and petitioner has paid \$130.00 for the late submission of a declaration. Regarding the extension of time filed May 7, 2001 (certificate of mailing date April 30, 2001), petitioner is correct that only a three month extension was necessary. Pursuant to petitioner's authorization, petitioner's deposit account 02-4800 will be charged the \$890.00 large entity fee for the three month extension of time due on May 7, 2001.¹ If petitioner can establish that small entity status was claimed prior to May 7, 2001, the Office will refund the difference between the large and small entity fees.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for issuance of a corrected filing receipt. Thereafter the application will be returned to Technology Center 2100 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ Financial records indicate petitioner's account has been refunded the three month extension of time originally filed on May 7, 2001.



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Paper No. 10

CHRISTOPHER E. PHILLIPS
5888 ASSIS COURT
SAN JOSE, CA 95138

In re Application of
Phillips & Wong
Application No. 09/679,398
Filed: October 3, 2000
Attorney Docket No.: 032001-011
For: HIERARCHICAL STORAGE
ARCHITECTURE FOR RECONFIGURABLE
LOGIC CONFIGURATIONS

COPY MAILED

LETTER

AUG 28 2001

OFFICE OF PETITIONS

Dear Mr. Phillips:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTORNEY OF RECORD: BURNS DOANE SWECKER & MATHIS LLP
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 11

DALE WONG
855 35TH AVENUE
SAN FRANCISCO, CA 94121

In re Application of
Phillips & Wong
Application No. 09/679,398
Filed: October 3, 2000
Attorney Docket No.: 032001-011
For: HIERARCHICAL STORAGE
ARCHITECTURE FOR RECONFIGURABLE
LOGIC CONFIGURATIONS

COPY MAILED

AUG 28 2001

LETTER

OFFICE OF PETITIONS

Dear Mr. Wong:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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